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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/025,009	12/19/2001	Martin Wiesler	1944	3574

7590 09/26/2005

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EXAMINER	
NGUYEN, XUAN LAN T	
ART UNIT	PAPER NUMBER
3683	

DATE MAILED: 09/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/025,009	WIESLER ET AL.	
	Examiner	Art Unit	
	Lan Nguyen	3683	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *19 July 2005* .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,3,4 and 6-22* is/are pending in the application.

4a) Of the above claim(s) *8-15,18 and 19* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,3,4,6,7,16,17 and 20-22* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☒ The proposed drawing correction filed on *30 March 2005* is: a)☒ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☒ Other: *drawings* .

DETAILED ACTION

Response to Amendment

1. The reply filed on 7/19/05 is not fully compliant in that the status identifiers for claims 8-15 should have been (Withdrawn). Applicant is required to provide a complete listing of the claims with the correct status identifiers in the reply to this office action.

Election/Restrictions

2. Newly submitted claims 18 and 19 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Claims 18 and 19 are corresponding to claims 8 and 12 which have been withdrawn for pertaining to non-elected embodiments.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 18 and 19 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 6, 21 and 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re: claim 6, claim 6 depends on cancelled claim 5. To further prosecution, claim 6 is being treated as depending from claim 1.

Re: claim 21, claim 21 claims "wherein said driven wheel being directly supported against said supporting element when axial force action is applied from outside". It is unclear the structural relationship that is being claimed between the driven wheel and the supporting element. Does Applicant intend to claim the structure of the transmission-drive unit as illustrated in figure 1 of the application wherein a gap exists between the driven wheel and the supporting element or does Applicant intend to claim the structure of the transmission-drive unit after a force has been applied to the transmission-drive unit to result in the elimination of the gap that exists between the driven wheel and the supporting element? It is believed that claim 21 is claiming a product that has been altered due to an external force and not an original product. Hence, it is unclear how the alteration would be depending on the magnitude and the direction of the external force and how the product would react to said external force. This claimed limitation is not further treated in claim 21 due to above stated reasons.

Re: claim 22, claim 22, it is believed that the claimed feature "said drive shaft" in claim 22 should have been -- said driven shaft --.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 7, 16, 17, 20 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Winter et al. (EP 0759374 A2).

Re: claim 1, Winter et al. show a transmission-drive unit for a seat adjustment, as in the present invention, comprising: a transmission housing 42; a driven shaft 26 extending outwardly beyond said transmission housing; a driven wheel 24 non rotatably arranged on said driven shaft; a support element 52 which directly at least partially surrounds said driven shaft as shown in figures 1 and 2 without further components between said driven shaft and said supporting element, said driven wheel 24 and said supporting element 52 being arranged axially near one another, wherein said supporting element 52 is arranged between said driven wheel 24 and an inner side of said transmission housing 42, as shown the figures. Note that the claimed feature "so that said driven wheel is directly supported against said supporting element when axial force action is applied from outside" is considered as a result and not a structural limitation. Winter et al. meet all the claimed structural limitations of claim 1.

Re: claim 7, Winter further shows said supporting element 52 being arranged at a distance from said driven wheel 24. Note that the claimed feature "which distance is

reduced with growing axial force action" is considered as a result and not a structural limitation. Winter meets all the claimed structural limitations of claim 7.

Re: claim 16, the discussion for the rejection of claim 1 meets all the claimed limitations of claim 16.

Re: claim 17, the discussion for the rejection of claim 1 meets all the claimed limitations of claim 17 except the claimed features spindle shaft and said driven wheel being arranged inside said transmission housing. Winter further shows that driven shaft 26 is a spindle shaft and said driven wheel 24 is arranged inside said transmission housing 42 in figure 2.

Re: claim 20, the discussion for the rejection of claim 1 meets all the claimed limitations of claim 20 except "said supporting element having an axial support surface, with which said supporting element is supported axially on an inner side of said transmission housing". Winter shows clearly in figure 2 said supporting element 52 having an axial support surface, the threaded bore, with which said supporting element 52 is supported axially by the driven shaft 26 on an inner side of said transmission housing 42.

Re: claim 21, the discussion for the rejection of claim 1 meets all the claimed limitations of claim 21 except "no further components being arranged axially between said driven shaft and said supporting element". Winter shows clearly in figure 2 that no further components being arranged axially between said driven shaft 26 and said supporting element 52 wherein 52 is directly mounted on shaft 26.

7. Claims 1, 7, 16, 17, 20 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Wittig et al. (DE 19709852 A1).

Re: claim 1, Wittig et al. show a transmission-drive unit for a seat adjustment, as in the present invention, comprising: a transmission housing 14; a driven shaft 37 extending outwardly beyond said transmission housing; a driven wheel 27 non rotatably arranged on said driven shaft; a support element 38 which directly at least partially surrounds said driven shaft as shown in figure 1 without further components between said driven shaft and said supporting element, said driven wheel 27 and said supporting element 38 being arranged axially near one another wherein said supporting element 38 is arranged between said driven wheel 27 and an inner side of said transmission housing 14, as shown figure 1. Note that the claimed feature "so that said driven wheel is directly supported against said supporting element when axial force action is applied from outside" is considered as a result and not a structural limitation. Wittig et al. meet all the claimed structural limitations of claim 1.

Re: claim 7, Wittig further shows said supporting element 38 being arranged at a distance from said driven wheel 27. Note that the claimed feature "which distance is reduced with growing axial force action" is considered as a result and not a structural limitation. Wittig et al. meet all the claimed structural limitations of claim 7.

Re: claim 16, the discussion for the rejection of claim 1 meets all the claimed limitations of claim 16.

Re: claim 17, Re: claim 17, the discussion for the rejection of claim 1 meets all the claimed limitations of claim 17 except the claimed features spindle shaft and said

driven wheel being arranged inside said transmission housing. Wittig further shows that driven shaft 37 is a spindle shaft and said driven wheel 27 is arranged inside said transmission housing 14 in figure 1.

Re: claim 20, the discussion for the rejection of claim 1 meets all the claimed limitations of claim 20 except "said supporting element having an axial support surface, with which said supporting element is supported axially on an inner side of said transmission housing". Wittig shows clearly in figure 1 said supporting element 38 having an axial support surface, the central bore, with which said supporting element 38 is supported axially by the driven shaft 37 on an inner side of said transmission housing 14.

Re: claim 21, the discussion for the rejection of claim 1 meets all the claimed limitations of claim 21 except "no further components being arranged axially between said driven shaft and said supporting element". Wittig shows clearly in figure 1 that no further components being arranged axially between said driven shaft 37 and said supporting element 38 wherein 38 is directly mounted on shaft 37.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. Claims 6 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Winter et al. (EP 0759374 A2) in view of the Applicant's submitted prior art, figure 2.

Re: claim 6, Winter's drive unit, as rejected in claim 1 above, is silent of a threaded bead formed on said driven shaft. Figure 2 of the submitted prior art teaches a threaded bead 34 formed on driven shaft 42, which has an outer diameter greater than the outer diameter of the driven shaft. With a modified driven shaft comprising a bead as taught by figure 2, said bead's outer diameter would be greater than the inner diameter of the supporting element 52. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Winter's drive unit to include a threaded bead on the driven shaft as taught by figure 2 of the submitted prior art in order to provide a more secured connection between the driven shaft and the driven wheel as taught by figure 2 of the submitted prior art.

Re: claim 22, Winter et al. show a transmission-drive unit for a seat adjustment, as in the present invention, comprising: a transmission housing 42; a driven shaft 26 extending outwardly beyond said transmission housing; a driven wheel 24 non rotatably arranged on said driven shaft; a support element 52 which directly at least partially surrounds said driven shaft as shown in figures 1 and 2 without further components between said driven shaft and said supporting element, said driven wheel 24 and said supporting element 52 being arranged axially near one another, wherein said supporting element 52 is arranged between said driven wheel 24 and an inner side of said transmission housing 42, as shown the figures. Note that the claimed feature "so that said driven wheel is directly supported against said supporting element when axial force

action is applied from outside" is considered as a result and not a structural limitation. Winter et al. meet all the claimed structural limitations of claim 22. Winter is silent of a threaded bead formed on said driven shaft. Figure 2 of the submitted prior art teaches a threaded bead 34 formed on driven shaft 42, which has an outer diameter greater than the outer diameter of the driven shaft. With a modified driven shaft comprising a bead as taught by figure 2, said bead's outer diameter would be greater than the inner diameter of the supporting element 52. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Winter's drive unit to include a threaded bead on the driven shaft as taught by figure 2 of the submitted prior art in order to provide a more secured connection between the driven shaft and the driven wheel as taught by figure 2 of the submitted prior art.

10. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wittig et al. (DE 19709852 A1) in view of Winter et al. (EP 0759374 A2).

Wittig's unit, as rejected in claim 1, lacks a packing. Winter et al. teach the concept of having a packing 42 as a further supporting structure to increase the structural integrity of the seat adjuster in case of a collision. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Wittig's unit with a packing such as taught by Winter in order to increase the structural integrity of the seat adjuster in case of a collision to enhance the safety of the passengers.

11. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wittig et al. (DE 19709852 A1).

Wittig's drive unit, as rejected in claim 1 above, lacks the supporting element being formed as a part of said housing wall. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Wittig's drive unit to make the supporting element as a part of the housing wall, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works,* 150 U.S. 164 (1893).

12. Claims 6 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wittig et al. (DE 19709852 A1) in view of the Applicant's submitted prior art, figure 2.

Re: claim 6, Wittig's drive unit, as rejected in claim 1 above, is silent of a threaded bead formed on said driven shaft. Figure 2 of the submitted prior art teaches a threaded bead 34 formed on driven shaft 42, which has an outer diameter greater than the outer diameter of the driven shaft. With a modified driven shaft comprising a bead as taught by figure 2, said bead's outer diameter would be greater than the inner diameter of the supporting element 38. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Wittig's drive unit to include a threaded bead on the driven shaft as taught by figure 2 of the submitted prior art in order to provide a more secured connection between the driven shaft and the driven wheel as taught by figure 2 of the submitted prior art.

Re: claim 22, Wittig et al. show a transmission-drive unit for a seat adjustment, as in the present invention, comprising: a transmission housing 14; a driven shaft 37 extending outwardly beyond said transmission housing; a driven wheel 27 non rotatably

arranged on said driven shaft; a support element 38 which directly at least partially surrounds said driven shaft as shown in figure 1 without further components between said driven shaft and said supporting element, said driven wheel 27 and said supporting element 38 being arranged axially near one another wherein said supporting element 38 is arranged between said driven wheel 27 and an inner side of said transmission housing 14, as shown figure 1. Note that the claimed feature "so that said driven wheel is directly supported against said supporting element when axial force action is applied from outside" is considered as a result and not a structural limitation. Wittig et al. meet all the claimed structural limitations of claim 22. Wittig is silent of a threaded bead formed on said driven shaft. Figure 2 of the submitted prior art teaches a threaded bead 34 formed on driven shaft 42, which has an outer diameter greater than the outer diameter of the driven shaft. With a modified driven shaft comprising a bead as taught by figure 2, said bead's outer diameter would be greater than the inner diameter of the supporting element 38. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Wittig's drive unit to include a threaded bead on the driven shaft as taught by figure 2 of the submitted prior art in order to provide a more secured connection between the driven shaft and the driven wheel as taught by figure 2 of the submitted prior art.

Response to Arguments

13. Applicant's arguments filed 7/19/05 have been fully considered but they are not persuasive. Applicant's argument is more specific than the claim language. Applicant argues that Winter's U shaped bracket 42 cannot be interpreted as a transmission housing. Applicant has not provided distinctions in the claims in order to exclude element 42 of Winter from being interpreted as a transmission housing. It is maintained that element 42 of Winter can be interpreted as a transmission housing in that element 42 is located in a transmission-drive unit and element 42 provides coverage (i.e. housing) for elements 52, 24, etc. Applicant further argues that Wittig's transmission-drive unit does not meet the claimed limitations of claim 1 in that the driven wheel 27 is not fixedly connected with the shaft 37. Claim 1 does not require the driven wheel to be fixedly connected to the driven shaft. Claim 1 simply requires "a driven wheel non rotatably arranged on said driven shaft". Wittig clearly shows a driven wheel 27 to be non rotatably arranged on said driven shaft 37 wherein driven wheel 27 is non rotatable in relation to element 24; hence, said driven wheel 27 is non rotatably arranged on said driven shaft 37. The art rejections are still deemed proper and are repeated above. The new 112, 2nd rejections are necessitated by Applicant's amendment.

Conclusion

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lan Nguyen whose telephone number is (571) 272-7121. The examiner can normally be reached on M-F, 8 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor can be reached on (571) 272-7095. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Lan Nguyen
Primary Examiner
Art Unit 3683

Lan Nguyen 9/20/05

Replacement sheet

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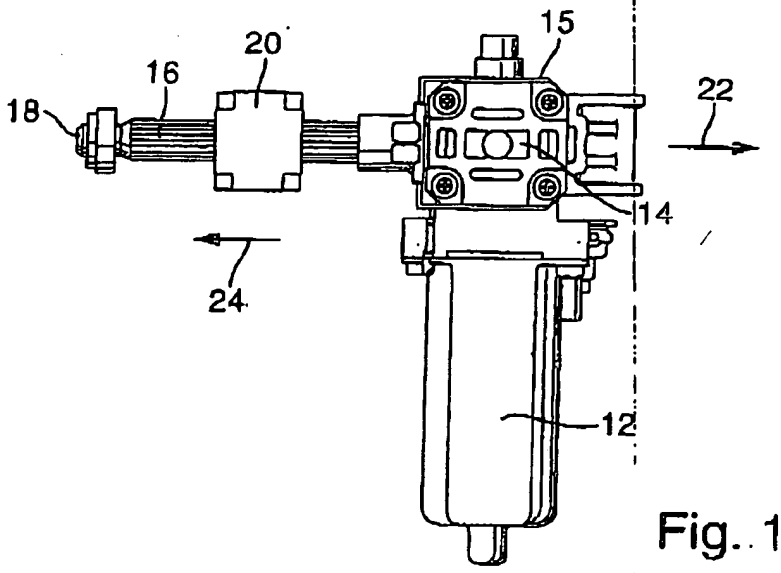

Fig. 1

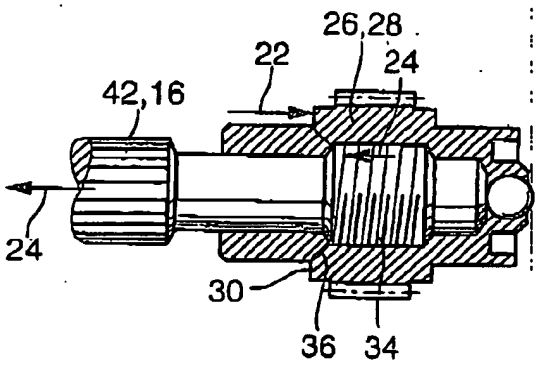

Fig. 2
PRIOR ART

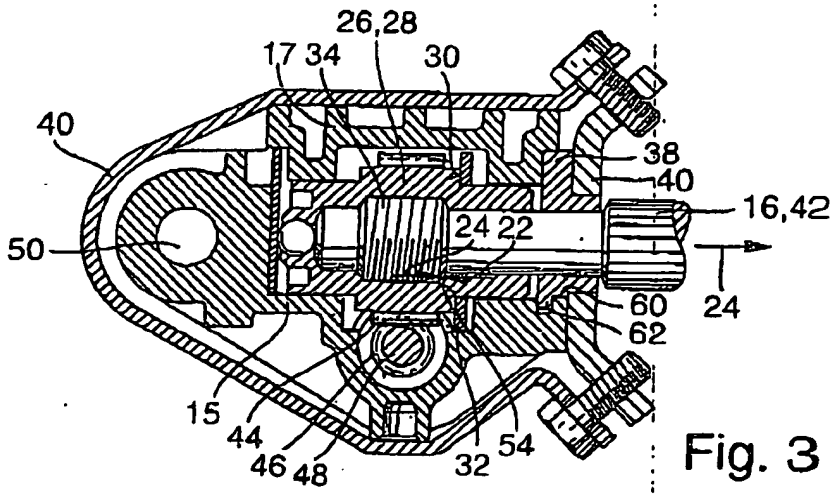

Fig. 3

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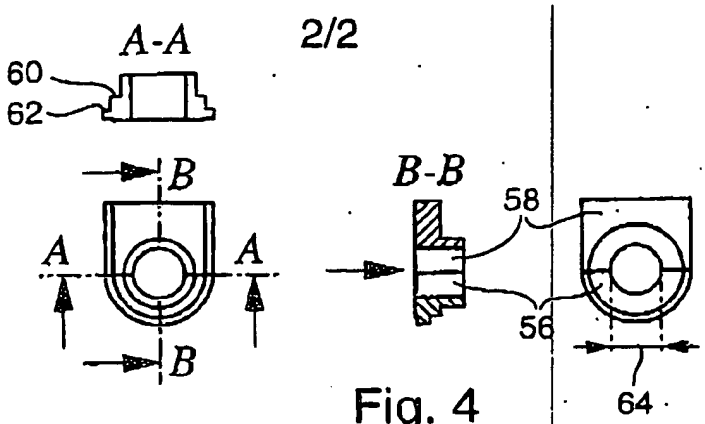

Fig. 4

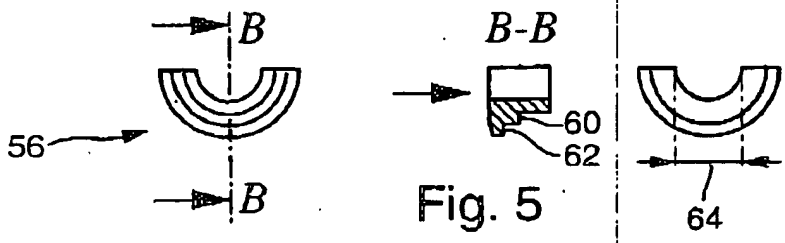

Fig. 5

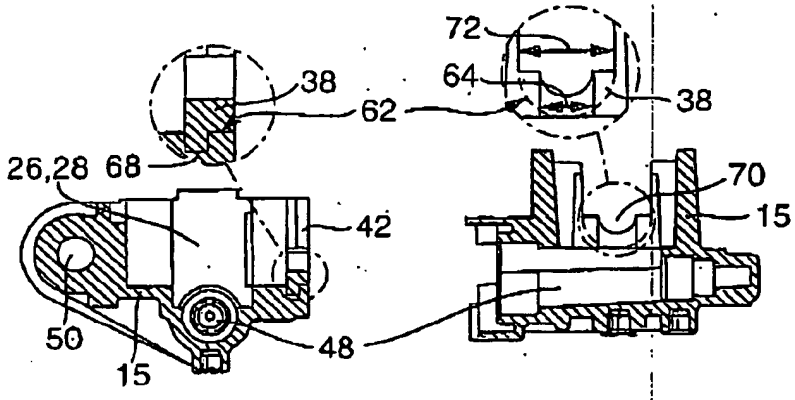

Fig. 6

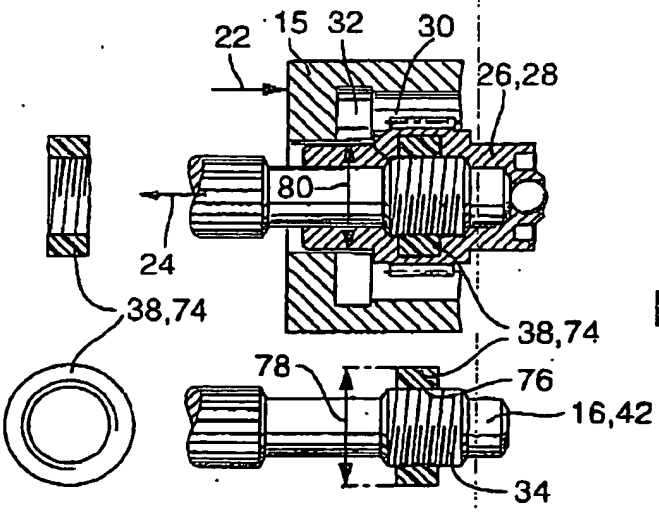

Fig. 7

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